

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DIANA VEGA ZAMUDIO,

Plaintiff,

v.

AEROTEK, INC., *et al.*

Defendants.

Case No. 1:21-cv-01673-JLT-CDB

SCHEDULING ORDER (Fed. R. Civ. P. 16)

Rule 26 Disclosures: December 19, 2023

Pleading Amendment: February 17, 2024

Discovery Deadlines:

Non-Expert: May 22, 2024

Expert: July 26, 2024

Mid-Discovery Status Conf.: March 8, 2024

Non-Dispositive Motion Deadlines:

Filing: August 9, 2024

Hearing: September 6, 2024, 10:30 a.m.

Dispositive Motion Deadlines:

Filing: September 27, 2024

Hearing: November 12, 2024, 8:30 a.m.

Pre-Trial Conference: January 13, 2025, 1:30 p.m.

2500 Tulare Street, Fresno, CA

Trial: March 11, 2025, 8:30 a.m.

2500 Tulare Street, Fresno, CA

5-7 days

This case was removed from state court to this court on November 18, 2021. (Doc. 1).

Plaintiff asserts claims against Defendants for disability discrimination, failure to provide reasonable accommodations, failure to engage in a good faith interactive process, and retaliation pursuant to

California’s Fair Employment and Housing Act (“FEHA”). Plaintiff further raises a claim for wrongful termination in violation of public policy. *Id.* The parties convened via Zoom videoconference for a scheduling conference before Magistrate Judge Christopher D. Baker on November 17, 2023. Edwin Pairavi appeared on behalf of Plaintiff, Michael Kun appeared on behalf of Defendant Aerotek, Inc., and Andrew Rosenman appeared on behalf of Defendant Caterpillar Inc.

I. Rule 26 Disclosures and Pleading Amendment

The parties shall exchange their Rule 26 disclosures by no later than **December 19, 2023**. Any motions to amend the pleadings must be filed by **February 17, 2024**. The parties are advised that filing a motion and/or stipulation requesting leave to amend the pleadings does not reflect on the propriety of the amendment or imply good cause to modify the existing schedule, if necessary. All proposed amendments must (A) be supported by good cause pursuant to Fed. R. Civ. P. 16(b) if the amendment requires any modification to the existing schedule, *see Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992), and (B) establish, under Fed. R. Civ. P. 15(a), that such an amendment is not (1) prejudicial to the opposing party, (2) the product of undue delay, (3) proposed in bad faith, or (4) futile, *see Foman v. Davis*, 371 U.S. 178, 182 (1962).

II. Discovery Plan and Cut-Off Date

The parties are ordered to complete all discovery pertaining to non-experts on or before **May 22, 2024**, and all discovery pertaining to experts on or before **July 26, 2024**.

The parties are directed to disclose all expert witnesses, in writing, on or before **June 5, 2024**, and to disclose all rebuttal experts on or before **June 26, 2024**. The written designation of retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B), and (C) and shall include all information required thereunder. Failure to designate experts in compliance with this order may result in the Court excluding the testimony or other evidence offered through such experts that are not disclosed pursuant to this order.

The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions included in the designation. Failure to comply may result in the imposition of sanctions, which may include striking the expert designation and preclusion of expert testimony.

1 The provisions of Fed. R. Civ. P. 26(e) regarding a party's duty to timely supplement
2 disclosures and responses to discovery requests will be strictly enforced.

3 A mid-discovery status conference is scheduled for **March 8, 2024**, at 10:00 a.m. before
4 Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference
5 report no later than **one week before the conference**. Counsel also SHALL lodge the status report via
6 e-mail to CDBorders@caed.uscourts.gov. The joint report SHALL outline the discovery counsel have
7 completed and that which needs to be completed as well as any impediments to completing the
8 discovery within the deadlines set forth in this order. Counsel SHALL discuss settlement and certify
9 in the joint status report (1) that they have met/conferred regarding settlement, and (2) proposed dates
10 for convening a settlement conference with Magistrate Judge Baker (or an unassigned magistrate in
11 the event the parties later consent to magistrate judge jurisdiction).

12 **III. Pre-Trial Motion Schedule / Informal Discovery Dispute Conferences**

13 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
14 than **August 9, 2024**,¹ and heard on or before **September 6, 2024**. The Court hears non-dispositive
15 motions at 10:30 a.m. at the United States District Courthouse in Bakersfield, California before
16 Magistrate Judge Baker.

17 No motion to amend or stipulation to amend the case schedule will be entertained unless it is
18 filed at least one week before the first deadline the parties wish to extend. Likewise, no written
19 discovery motions shall be filed without the prior approval of the Court. A party with a discovery
20 dispute must first confer with the opposing party in a good faith effort to resolve by agreement the
21 issues in dispute. If that good faith effort is unsuccessful, the moving party promptly shall seek a
22 hearing with all involved parties and Magistrate Judge Baker. For these hearings and at the direction
23 of the Courtroom Deputy Clerk, the Court may direct counsel to appear remotely (via Zoom). For
24 hearings noticed to occur in-person, the Court may permit counsel to appear remotely (via Zoom)

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28 ¹ Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of discovery of the dispute, but in no event later than 10 days after the expiration of the non-expert discovery deadline.

1 provided the Courtroom Deputy Clerk receives a written notice of the request to appear remotely no
2 later than five court days before the noticed hearing date.

3 At least three days before the conference, counsel SHALL file informal letter briefs detailing
4 their positions. The briefs may not exceed 5 pages, excluding exhibits. Counsel must comply with
5 Local Rule 251 with respect to discovery disputes.

6 All dispositive pre-trial motions shall be filed no later than **September 27, 2024**, and heard on
7 or before **November 12, 2024, at 8:30 a.m.** In scheduling such motions, absent consent to Magistrate
8 Judge jurisdiction, counsel SHALL consult the assigned District Judge's general information and
9 calendar accordingly and SHALL comply with Fed. R. Civ. P. 56 and Local Rules 230 and 260.

10 **IV. Motions for Summary Judgment or Summary Adjudication**

11 At least 21 days before filing a motion for summary judgment or motion for summary
12 adjudication, the parties SHALL meet, in person or by telephone, to confer about the issues to be
13 raised in the motion.

14 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
15 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
16 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
17 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
18 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

19 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
20 statement of undisputed facts **at least five days before** the conference. The finalized joint statement
21 of undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
22 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
23 statement of undisputed facts.

24 In the notice of motion, the moving party SHALL certify that the parties have met and
25 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.
26 Failure to comply may result in the motion being stricken.

1 **V. Pre-Trial Conference**

2 **January 13, 2025**, at 1:30 p.m., located at the United States District Courthouse, 2500 Tulare
3 Street, in Fresno, California, before District Judge Jennifer L. Thurston.

4 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
5 parties are further directed to submit a digital copy of their pretrial statement in Word format, directly
6 to District Judge Thurston's chambers, by email at JLTorders@caed.uscourts.gov.

7 Counsels' attention is directed to Rules 281 and 282 of the Local Rules for the Eastern District
8 of California, as to the obligations of counsel in preparing for the pre-trial conference. The Court will
9 insist upon strict compliance with those rules. In addition to the matters set forth in the Local Rules,
10 the Joint Pretrial Statement shall include a Joint Statement of the case to be used by the Court to
11 explain the nature of the case to the jury during voir dire.

12 **VI. Trial Date**

13 **March 11, 2025**, at 8:30 a.m., located at the United States District Courthouse, 2500 Tulare
14 Street, in Fresno, California, before District Judge Jennifer L. Thurston.

15 A. This is a jury trial.

16 B. Counsels' Estimate of Trial Time: 5-7 days.

17 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
18 California, Rule 285.

19 **VII. Settlement Conference**

20 The parties SHALL meet and confer and notify the Court prior to the Pre-Trial Conference
21 whether they wish to convene a Settlement Conference. In the event the parties request a Settlement
22 Conference, unless otherwise permitted in advance by the Court, the attorneys who will try the case
23 shall appear at the settlement conference with the parties and the person or persons having full
24 authority to negotiate and settle the case on any terms² at the conference.

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26 ² Insurance carriers, business organizations, and governmental bodies or agencies whose
27 settlement agreements are subject to approval by legislative bodies, executive committees, boards of
28 directors or the like shall be represented by a person or persons who occupy high executive positions in
the party organization and who will be directly involved in the process of approval of any settlement
offers or agreements. To the extent possible, the representative shall have authority, if he or she deems
it appropriate, to settle the action on terms consistent with the opposing party's most recent demand.

1 Consideration of settlement is a serious matter that requires preparation prior to the settlement
2 conference. Set forth below are the procedures the Court will employ, absent good cause, in
3 conducting the conference.

4 At least twenty-one days before the settlement conference, Plaintiff SHALL submit to
5 Defendant via fax or e-mail, a written itemization of damages and a meaningful³ settlement demand
6 which includes a brief explanation of why such a settlement is appropriate. Thereafter, no later than
7 fourteen days before the settlement conference, Defendant SHALL respond, via fax or e-mail, with an
8 acceptance of the offer or with a meaningful counteroffer which includes a brief explanation of why
9 such a settlement is appropriate.

10 If settlement is not achieved, each party SHALL attach copies of their settlement offers to their
11 Confidential Settlement Conference Statement, as described below. Copies of these documents shall
12 not be filed on the court docket.

13 CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT

14 At least five court days prior to the settlement conference, the parties shall submit, directly to
15 Magistrate Judge Baker's chambers by e-mail to CDBOrders@caed.uscourts.gov, a Confidential
16 Settlement Conference Statement. The statement should not be filed with the Clerk of the Court nor
17 served on any other party, although the parties may file a Notice of Lodging of Settlement Conference
18 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
19 settlement conference indicated prominently thereon.

20 The Confidential Settlement Conference Statement shall include the following:

21 A. A brief statement of the facts of the case.
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26 ³ "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to
27 the offering party. "Meaningful" does not include an offer which the offering party knows will not be
28 acceptable to the other party. If, however, the offering party is only willing to offer a settlement which
it knows the other party will not accept, this should trigger a recognition the case is not in a settlement
posture and the parties should confer about continuing or vacating the settlement conference via
stipulation.

1 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
2 which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the
3 claims and defenses; and a description of the major issues in dispute.

4 C. A summary of the proceedings to date.

5 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.

6 E. The relief sought.

7 F. The party's position on settlement, including present demands and offers and a history
8 of past settlement discussions, offers and demands.

9 **VIII. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
10 **Trial**

11 None at this time.

12 **IX. Related Matters Pending**

13 There are no pending related matters.

14 **X. Compliance with Federal Procedure**

15 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
16 and the Local Rules of the Eastern District of California, and to keep abreast of any amendments
17 thereto. The Court requires compliance with these Rules to efficiently handle its increasing case load.

18 **XI. Effect of this Order**

19 The foregoing order represents the best estimate of the court and counsel as to the agenda most
20 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
21 parties determine at any time that the schedule outlined in this order cannot be met, counsel are
22 ordered to notify the court immediately of that fact so that adjustments may be made, either by
23 stipulation or by subsequent status conference.

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1 The dates set in this Order are considered to be firm and will not be modified absent a showing
2 of good cause even if the request to modify is made by stipulation. Stipulations extending the
3 deadlines contained herein will not be considered unless they are accompanied by affidavits or
4 declarations, and where appropriate attached exhibits, which establish good cause for granting the
5 relief requested.

6 Failure to comply with this order may result in the imposition of sanctions.

7 IT IS SO ORDERED.

8 Dated: November 17, 2023


UNITED STATES MAGISTRATE JUDGE